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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,	:	Case No. 2:18-CR-365-JNP-BCW
Plaintiff,	:	
v.	:	
JACOB ORTELL KINGSTON,	:	GOVERNMENT'S RESPONSE TO
ISAIAH ELDEN KINGSTON,	:	JACOB KINGSTON'S NOTICE OF
LEV ASLAN DERMEN,	:	GOVERNMENT'S ABUSE OF THE
a/k/a Levon Termendzhyan,	:	GRAND JURY
RACHEL ANN KINGSTON, and	:	
SALLY LOUISE KINGSTON	:	
Defendants.	:	District Judge Jill N. Parrish
	:	Magistrate Judge Brooke C. Wells

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The United States hereby responds to Jacob Kingston's Notice of Government's Abuse of the Grand Jury. ECF 164. The notice should be disregarded as the defendant fails to offer any basis to overcome the presumption of regularity that attaches to the grand jury's acts.

All courts recognize the presumption of regularity that attaches to grand jury proceedings. *United States v. Mechanik*, 475 U.S. 66, 75, 106 S. Ct. 938, 944, 89 L. Ed. 2d 50

(1986) (“The grand jury proceeding is accorded a presumption of regularity, which generally may be dispelled only upon particularized proof of irregularities in the grand jury process.”); *United States v. McVeigh*, 896 F. Supp. 1549, 1557 (W.D. Okla. 1995) (citing *United States v. R. Enterprises, Inc.*, 498 U.S. 292, 300-01 (1991)) (“The witness/Defendant offers nothing to support his assertions that the grand jury subpoena and directive are being used to gather information to be used in a pending grand jury investigation in Michigan or to gather evidence for a trial in Michigan other than rank speculation or supposition. Such rank speculation or supposition is insufficient to overcome the presumption of regularity that attaches to the grand jury's acts.”).

The United States intends to go to trial on the Second Superseding Indictment returned by the grand jury and is not using the grand jury to prepare for trial. There are many legitimate bases for a grand jury to continue issuing subpoenas, even after it has returned an indictment and the government has started preparing for trial.<sup>1</sup> *See, e.g., United States v. Gibbons*, 607 F.2d 1320, 1328 (10th Cir. 1979); *Beverly v. United States*, 468 F.2d 732, 743 (5th Cir. 1972); *United States v. George*, 444 F.2d 310, 314 (6th Cir. 1971); *In re Grand Jury Proceedings (Dramante)*, 814 F.2d 61, 70-71 (1st Cir. 1987). Here, Defendant Kingston offers nothing beyond speculation or supposition to support his contention that the United States made any improper use of the grand jury.

For all these reasons, Defendant Jacob Kingston’s Notice, ECF 164, should be disregarded.

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<sup>1</sup> Pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure, the United States cannot comment on grand jury investigations on a public docket. However, at the Court’s request, the government can address any specific questions on an *in camera* and *ex parte* basis.

Respectfully submitted this 30<sup>th</sup> day of January, 2019.

JOHN W. HUBER  
United States Attorney

/s/ Leslie A. Goemaat  
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Certificate of Service

I certify that on the 30th day of January 2019, I caused a copy of the foregoing to be filed through the CM/ECF electronic filing system, thereby causing a true and correct copy of the foregoing to all counsel of record.

/s/Leslie A. Goemaat  
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